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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 STEVEN ALEXANDER BOLDEN,

11 Petitioner,

12 v.

13 UNITED STATES OF AMERICA,

14 Respondent.
15

Case No. C19-1289 RSM

ORDER DENYING PETITIONER'S
MOTION UNDER 28 U.S.C. § 2255

16 **I. INTRODUCTION**

17 Before the Court is Petitioner's 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or
18 Correct Sentence. Dkt. #1. Petitioner Steven Alexander Bolden challenges the 120-month
19 sentence imposed on him by this Court following his guilty plea for filing a false tax return,
20 wire fraud, and aggravated identity theft. *Id.* at 2; Case No. 2:13-cr-201-RSM, Dkt. #55.
21 Petitioner challenges his sentence on three grounds: 1) Misconduct by a pretrial services officer
22 in "relinquishing federal custody" to local authorities in California to pursue separate state
23 charges, 2) a due process violation occurring at the state court in Los Angeles County, and 3)
24 an equal protection violation by this Court in sentencing by failing to give Petitioner full credit
25 for time he was in the custody of state court in California. Dkt. #1. The Government responds
26 that Mr. Bolden's claims are either procedurally barred or otherwise without legal merit. Dkt.
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1 #10. After full consideration of the record, and for the reasons set forth below, the Court
2 DENIES Mr. Bolden's § 2255 Motion.

3 II. BACKGROUND

4 The Court generally agrees with the relevant background facts as set forth by the
5 Government and demonstrated by court records.

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7 On May 31, 2013, the United States Attorney in the Western District of Washington
8 charged Steven Alexander Bolden by Federal Criminal Complaint with defrauding the United
9 States' "Computers for Learning Program." Case. No. 15-cr-201-RSM, Dkt. #1. Mr. Bolden
10 was arrested in Los Angeles and released on bond by a Los Angeles Magistrate Judge. He then
11 appeared in this Court on June 13, 2013, and was again released on bond, subject to standard
12 conditions. He was indicted on June 26, 2013. Case. No. 15-cr-201-RSM, Dkt. #10. After one
13 continuance of trial, Mr. Bolden pled guilty to his federal charges on January 3, 2014,
14 admitting to three counts in a Superseding Information, including fraud, tax fraud, and
15 aggravated identity theft. Case. No. 15-cr-201-RSM, Dkt. #33. Mr. Bolden was again released
16 on bond after making his plea.
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19 The Court later learned that while in California on bond in 2013, Mr. Bolden had
20 committed state crimes and local authorities were planning to arrest him. *See* Case. No. 15-cr-
21 201-RSM, Dkt. #39. Pretrial Services in Washington coordinated with its counterpart in Los
22 Angeles to arrest Bolden. Bolden reported to Pretrial Services in Los Angeles on January 15,
23 2014, and was arrested by United States Marshals. Meanwhile, California authorities in Los
24 Angeles simultaneously implemented their own plans to arrest Bolden and to charge him with
25 new crimes. Records from the United States Marshals office show that Bolden was arrested
26 and relinquished to local authorities. Dkt. #10-1 at 46. On January 17, 2014, Los Angeles
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1 authorities filed a criminal complaint against Bolden. *Id.* at 59. The case register for Bolden's
2 Los Angeles case shows that he continued the trial in his Los Angeles case multiple times. *See*
3 *id.* at 76–112. Eventually Mr. Bolden pled guilty in California and was sentenced to seven
4 years to run concurrently to any federal sentence. California later relinquished Bolden to
5 federal authorities. Bureau of Prisons inmate records confirm that Bolden first arrived in their
6 custody on October 31, 2014. *Id.* at 114.
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8 Mr. Bolden was sentenced by this Court on February 5, 2015. Case. No. 15-cr-201-
9 RSM, Dkt. #54. The Court imposed the following custodial time:

10 ...for Counts 1 and 6, a total of 96 months, and for Count 5, the
11 aggravated identity theft, that is 24 months consecutive to Counts 1
12 and 6, for a total of 120 months. All of this is to run concurrent to
13 L.A. County Superior Court Case No. YA089348. In terms of
14 credit for time served, the Court will only grant credit from when
15 he came into federal custody.

16 Dkt. #10-1 at 28. Judgment was entered on February 9, 2015. Case. No. 15-cr-201-RSM, Dkt.
17 #55. Mr. Bolden did not file an appeal.

18 After his federal sentencing, Bolden returned to California to serve his California
19 sentence. Apparently Mr. Bolden then petitioned to withdraw his California plea and the court
20 permitted him to do so. *See* Dkt. #10-1 at 88. The California court reinstated the original
21 charges and Mr. Bolden remained in pretrial custody in California for several years, repeatedly
22 continuing his trial date. He ultimately pled no contest, but not until May of 2019, after he had
23 been held in custody for nearly all of his original 7-year state sentence. *Id.* at 109. California
24 then relinquished Bolden to BOP custody so he could complete his federal sentence. The
25 Government states that Mr. Bolden is serving his time at Terminal Island FCI in California, and
26 that he is scheduled for release on February 27, 2023. Dkt. #10 at 7.
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1 Mr. Bolden filed this instant petition on August 15, 2019. Dkt. #1. Mr. Bolden argues
2 that U.S. Probation and the U.S. Marshals committed wrongdoing by participating in his arrest
3 in California in January of 2014, that the California state court committed misconduct by
4 failing to relinquish him to federal authority earlier, and that his credit for time served has been
5 miscalculated because he was actually in federal custody when he was in state custody. *See id.*
6 He requests in relief a re-sentencing to time served or for the Court to credit 13 months in time
7 served. *Id.* at 10.
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9 III. DISCUSSION

10 A. Legal Standard

11 A motion under 28 U.S.C. § 2255 permits a federal prisoner in custody to collaterally
12 challenge his sentence on the grounds that it was imposed in violation of the Constitution or
13 laws of the United States, or that the Court lacked jurisdiction to impose the sentence or that the
14 sentence exceeded the maximum authorized by law. A petitioner seeking relief under § 2255
15 must file his motion with the one-year statute of limitations set forth in § 2255(f). The
16 limitation period runs from the latest of:
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19 (1) the date on which the judgment of conviction becomes final;

20 (2) the date on which the impediment to making a motion created
21 by governmental action in violation of the Constitution or laws of
22 the United States is removed, if the movant was prevented from
making a motion by such governmental action;

23 (3) the date on which the right asserted was initially recognized
24 by the Supreme Court, if that right has been newly recognized by
25 the Supreme Court and made retroactively applicable to cases on
collateral review; or

26 (4) the date on which the facts supporting the claim or claims
27 presented could have been discovered through the exercise of due
28 diligence.

1 28 U.S.C. § 2255(f).

2 **B. Evidentiary Hearing**

3 The Court agrees with the Government that an evidentiary hearing is not required in this
4 case because Mr. Bolden's allegations can be refuted from the record on procedural grounds.
5 *See* Dkt. #10 at 9 (citing *Miller v. United States*, 339 F.2d 704 (9th Cir. 1964)).
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7 **C. Timeliness of Motion**

8 A petitioner seeking relief under § 2255 must file his motion within the one-year statute
9 of limitations set forth in § 2255(f). Given that the judgment was entered in Mr. Bolden's
10 criminal case on February 9, 2015, Mr. Bolden is late by several years unless he is relying on §
11 2255(f)(4) to claim that the facts supporting his claims could not have been discovered through
12 the exercise of due diligence prior to August 15, 2018. Concerning his first two grounds for
13 relief, Mr. Bolden does not present any evidence that he could not have discovered the facts
14 with due diligence any earlier and is essentially forced to claim that he did not understand he
15 was in state rather than federal custody when he was held in California. The Court agrees with
16 the Government that Mr. Bolden "cannot credibly claim he did not know he was in state
17 custody, facing state charges, when he was in jail in California" because, among other reasons,
18 he had his attorney try to quash the federal warrant at the time. *See* Dkt. #10 at 11. Even if Mr.
19 Bolden was unaware of the status of his custody at the time, everything was made clear to him
20 at least by the sentencing in 2015.
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22 As for ground three, Mr. Bolden appears to allege in his reply brief that it was not until
23 July 16, 2019, that he calculated his approximate release date with the help of BOP staff and
24 that his credit for time served had not been, in his mind, appropriately calculated. *See* Dkt. #23
25 at 6–7. The Court finds that Mr. Bolden was fully aware of how this Court calculated credit for
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1 time served at the sentencing where he was present, and that Mr. Bolden has not demonstrated
2 due diligence in correcting any confusion on his part as to what the Court meant at sentencing.

3 The timeliness of this petition is thus properly measured from the date on which the
4 judgment of conviction became final, well over four years ago. The Court finds this petition
5 untimely. On this procedural ground alone, this petition is properly dismissed. Mr. Bolden's
6 pending Motions seeking discovery are moot.
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8 If Mr. Bolden believes his jail credits have not been calculated properly by BOP, the
9 Government correctly notes that Mr. Bolden "should have filed a Motion under 28 U.S.C. §
10 2241, not 2255, and should have filed it in the District in which FCI Terminal Island is found—
11 the Central District of California." Dkt. #10 at 9. A § 2241 petition "generally challenges the
12 execution of a federal prisoner's sentence; for example, a claim that the prison did not properly
13 compute the sentence." *Porter v. Adams*, 244 F.3d 1006, 1007 (9th Cir. 2001); *Jiminian v. Nash*,
14 245 F.3d 144, 146-47 (2d Cir. 2001). A 2241 petition must be brought in the district where the
15 inmate is incarcerated. *Chambers v. United States*, 106 F.3d 472, 474-75 (2d Cir. 1997);
16 *Bridges v. Vasquez*, 151 F.Supp.2d 1353 (N.D.Fla. 2001). Mr. Bolden does not address this
17 issue in his Reply brief.
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20 **D. Certificate of Appealability**

21 A petitioner seeking post-conviction relief under § 2255 may appeal this Court's
22 dismissal of his petition only after obtaining a Certificate of Appealability ("COA") from a
23 district or circuit judge. The Court finds that a COA is not warranted in this case. A COA may
24 issue only where a petitioner has made "a substantial showing of the denial of a constitutional
25 right." See 28 U.S.C. § 2253(c)(3). A petitioner satisfies this standard "by demonstrating that
26 jurists of reason could disagree with the district court's resolution of [her] constitutional claims
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1 or that jurists could conclude the issues presented are adequate to deserve encouragement to
2 proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327, 123 S. Ct. 1029, 154 L. Ed. 2d 931
3 (2003). The Court finds the law is clear and there is no basis to issue a COA.

4 IV. CONCLUSION

5 Having considered Petitioner’s motion, Respondent’s answer thereto, and the remainder
6 of the record, the Court hereby finds and ORDERS:
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- 8 1. Petitioner’s Motion under § 2255 (Dkt. #1) is DENIED. No COA shall be issued.
- 9 2. Petitioner’s Motions for Evidentiary Hearing and Leave of Court to Conduct
10 Discovery (Dkts. #21 and #22) are DENIED AS MOOT.
- 11 3. This matter is now CLOSED.
- 12 4. The Clerk of the Court is directed to forward a copy of this Order to Petitioner and
13 all counsel of record.
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16 DATED this 21st day of February 2020.

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19 RICARDO S. MARTINEZ
20 CHIEF UNITED STATES DISTRICT JUDGE
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